

KAPLAN HECKER & FINK LLP

350 FIFTH AVENUE | 63RD FLOOR
NEW YORK, NEW YORK 10118

1050 K STREET NW | SUITE 1040
WASHINGTON, DC 20001

TEL (212) 763-0883 | FAX (212) 564-0883

WWW.KAPLANHECKER.COM

DIRECT DIAL 212.763.0883
DIRECT EMAIL jquinn@kaplanhecker.com

February 10, 2023

VIA ECF

The Honorable Sarah L. Cave
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl St.
New York, NY 10007

Re: *McKoy, et al. v. The Trump Corp., et al.*, No. 18 Civ. 9936 – Letter Motion to Seal

Dear Judge Cave:

We write on behalf of Plaintiffs in the above-referenced action, pursuant to Rule I.F.2 of your Honor’s Individual Practices, to respectfully request provisional approval to file under seal an unredacted version of Plaintiffs’ letter to the Court seeking preclusion of Defendants’ experts pursuant to Federal Rule of Civil Procedure 37(c) (“Letter”).¹

In the Letter, Plaintiffs refer to information found in and quote from a document that has been designated as “Confidential” by Defendants under Paragraph 3 of the operative Protective Order entered by Judge Schofield on September 10, 2019. *See* ECF 112.

In accordance with Paragraph 16 of the Protective Order, which incorporates by reference section I.D.3 of Judge Schofield’s Individual Rules, Plaintiffs have provisionally filed the unredacted Letter under seal and have provisionally redacted references to the information designated as Confidential in the version of the Letter filed publicly on the docket. Pursuant to the Protective Order, however, the party “with an interest in confidential treatment bears the burden of persuasion.” ECF 112 at 5.

In this case, Defendants, as the parties that made the relevant confidentiality designations, have the “interest in confidential treatment.” *Id.* Accordingly, on February 10, 2023, counsel for Plaintiffs advised Defendants’ counsel concerning our intent to file a letter-motion under seal with the material designated Confidential redacted in the publicly filed version.

¹ In accordance with Rule I.F.2 of the Court’s Individual Practices, an unredacted copy of the Letter, with redactions highlighted, will be filed under seal contemporaneously with this letter motion. *See* Standing Order, 19-mc-00583 (Dec. 19, 2019); Electronic Case Filing Rules & Instructions, Rule 6.8. Plaintiffs will timely serve the unredacted version on Defendants.

For the avoidance of doubt, Plaintiffs take no position at this time on whether the redacted information was properly designated as Confidential or whether it ought to remain sealed from the public. Plaintiffs further respectfully reserve the right to challenge the relevant confidentiality designations in the future pursuant to Paragraph 15 of the Protective Order.

Respectfully submitted,



John C. Quinn

cc: Counsel of Record (via ECF)